

RCO Legal, P.S.

13555 SE 36th St., Ste. 300
Bellevue, WA 98006
Phone: 425.458.2121
Fax: 425.458.2131
www.rcolegal.com

Honorable Judge Timothy W Dore
Chapter 7
Hearing Location: Seattle
Hearing Date: December 5, 2014
Hearing Time: 9:30 a.m.
Response Date: November 28, 2014

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

IN RE:

NANCY LYNN SPICKLER

Debtors.

CHAPTER 7 BANKRUPTCY

NO.: 14-17054-TWD

**MOTION FOR RELIEF FROM STAY
BY WELLS FARGO HOME
MORTGAGE**

I. Introduction

COMES NOW, Wells Fargo Home Mortgage, its successors in interest, agents, assigns and assignors ("Movant") and moves this court for an order terminating the automatic stay and allowing Movant to proceed with and complete any and all contractual and statutory remedies, including unlawful detainer and forcible eviction, incident to its interests held in real property commonly described as 6711 South 239th Place Unit A105, Kent, Washington 98032 ("Property"), and legally described as set forth in the Trustee's Deed attached as an Exhibit to Movant's Declaration. Movant further moves that, absent objection, the provisions of F.R.B.P. 4001(a)(3) be waived to avoid further deterioration of Movant's secured position.

II. Parties in Interest

Debtor had an interest in the Property based upon the Deed of Trust referenced in the Trustee's Deed and was owner in fee simple of the Property. A true and correct copy of the Trustee's Deed is attached as Exhibit A to the Declaration in Support of Movant's Motion for Relief from Stay.

1 Debtor's interest in the Property was extinguished by virtue of a trustee's sale held on
2 August 29, 2014. Id. Extinguishment of the interest is evidenced by the Trustee's Deed. Id.

3 Debtor filed for protection under Chapter 7 of Title 11 of the United States Code on .

4 Movant's interest is based on the Trustee's Deed. The Trustee's Deed was issued on or
5 about September 3, 2014 and recorded in the records of King County on September 4, 2014. Id.

6 **III. Value of the Property**

7 The property sold at auction for \$142,400.00; therefore, the presumed market value of the
8 property is \$142,400.00.
9

10 **IV. Authority**

11 Pursuant to 11 U.S.C. § 362 (d)(1), on request of a party in interest, the Court shall
12 terminate, annul, modify or condition the stay for cause. In the case at bar, Debtor has no legal
13 equitable interest in the Property and thus there is no equity cushion. Movant also lacks adequate
14 protection in that Debtor's continued occupancy prevents Movant from protecting the Property
15 from loss and preserving the asset. Therefore, there is cause to lift the stay.

16 Pursuant to 11 U.S.C. § 362 (d)(2), on request of a party in interest, the Court shall
17 terminate, annul, modify or condition the stay if there is no equity in the property and the
18 property is not necessary for an effective reorganization. As described above, there is no equity
19 in the subject property. Given that the Debtor has no legal or equitable right to the Property, the
20 Property cannot be part of any reorganization.

21 For the above reasons, the Court should allow Movant to proceed with its state law
22 eviction rights.

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DATED: November 4th, 2014.

RCO LEGAL, P.S.

By: /s/ John McIntosh
John McIntosh, WSBA# 43113
Attorneys for Wells Fargo Home Mortgage